

REMARKS

Claims 1, 2, 5, 8, 9, 19, 20, and 22 are currently pending in the application.

Claims 3, 4, 6, 7, 10, through 18, 20, and 21 have been canceled in this amendment.

This amendment is in response to the Office Action of September 9, 2003.

35 U.S.C. § 102(b) Rejections

Anticipation Rejection Based on Dreher (U.S. Patent 4,551,717)

Claims 1 through 4 and 8 through 10 are rejected under 35 U.S.C. § 102(b) as being anticipated by Dreher (U.S. Patent No. 4,551,717).

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Brothers v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

After carefully considering the cited prior art, the rejections, and the Examiner's comments, Applicant has amended the claimed invention to clearly distinguish over the cited prior art.

Applicant asserts that presently amended independent claims 1, 5, 8, and 9 are not and cannot be anticipated under 35 U.S.C. § 102 by the Dreher reference because the Dreher reference does not identically describe each and every element of the presently claimed invention in as complete detail as is contained in the presently amended claims. Applicant asserts that the Dreher reference has no description whatsoever of the elements of the presently claimed invention calling for "a key cap mounted atop each switch device of said plurality, each key cap having at least one identifying graphic symbol formed on an upper surface thereof of a first material having no electrical connection thereto including one of a black material and a dark-colored non-luminescent material", "a second luminescent material different than the first material forming the identifying graphic symbol, the second luminescent material embedded within each key cap substantially throughout", "a key cap mounted atop each switch device of said plurality of switch devices, each key cap having luminescent material embedded there within

of a first material and having at least one identifying graphic symbol formed thereon of a second material having no electrical connection thereto including one of a black material and a dark-colored non-luminescent material", and "a second luminescent material embedded within each key cap different than the first material forming the identifying graphic symbol, the second luminescent material substantially embedded throughout each key cap".

The Dreher reference merely describes a key having an LCD or LED display therein. Such is not the presently claimed inventions of presently amended independent claims 1, 5, 8, and 9. Accordingly, the Dreher reference does not and cannot anticipate the inventions of presently amended independent claims 1, 5, 8, and 9. Therefore, such claims are allowable.

35 U.S.C. § 103(a) Obviousness Rejections

Obviousness Rejection Based on Dreher (U.S. Patent 4,551,717) in view of Takami (U.S. Patent 4,205,522)

Claims 5 and 11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Dreher (U.S. Patent 4,551,717) in view of Takami (U.S. Patent 4,205,222). Applicant respectfully traverses this rejection, as hereinafter set forth.

Applicant further submits that to establish a *prima facie* case of obviousness under 35 U.S.C. § 103 three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Third, the cited prior art reference must teach or suggest all of the claim limitations. Furthermore, the suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Applicant's disclosure.

Applicant asserts that any combination of the cited prior art does not establish a *prima facie* case of obviousness under 35 U.S.C. § 103 regarding the presently claimed invention of presently amended independent claim 5 because, at the very least, the proposed combination of cited prior art does not teach or suggest all the claim limitations of the presently amended independent claim 5, and any rejection of presently amended independent claim 5 based upon

any combination of the cited prior art would be a hindsight reconstruction of the Applicant's presently claimed invention based solely upon Applicant's disclosure, not the combination of the cited prior art.

First, the proposed combination of the cited prior art does not teach or suggest all the claim limitations of the presently claimed invention calling for "a key cap mounted atop each switch device of said plurality, each key cap having at least one identifying graphic symbol formed on an upper surface thereof of a first material having no electrical connection thereto including one of a black material and a dark-colored non-luminescent material", "a second luminescent material different than the first material forming the identifying graphic symbol, the second luminescent material embedded within each key cap substantially throughout", "a key cap mounted atop each switch device of said plurality of switch devices, each key cap having luminescent material embedded there within of a first material and having at least one identifying graphic symbol formed thereon of a second material having no electrical connection thereto including one of a black material and a dark-colored non-luminescent material", and "a second luminescent material embedded within each key cap different than the first material forming the identifying graphic symbol, the second luminescent material substantially embedded throughout each key cap".

As set forth above, the Dreher reference is directed to a key having a LCD or LED display. The Takami reference is directed to a key having a LCD display using a luminescent phosphor. Clearly, such keys do not and cannot teach such claim limitations that are in the presently claimed inventions of presently amended independent claim 5.

Additionally, Applicant asserts that any rejection of the presently claimed invention of presently amended independent claim 5 based upon any combination of the cited prior art would be a hindsight reconstruction of the Applicant's presently claimed invention based solely upon Applicant's disclosure, not the cited prior art. Such a rejection is neither within the ambit nor purview of 35 U.S.C. § 103 and, clearly, improper. Such a rejection is clearly a hindsight reconstruction of Applicant's claimed invention based solely upon Applicant's disclosure because the proposed combination of the cited prior art fails to teach or suggest the claim limitations of the presently claimed invention. Accordingly, solely Applicant's disclosure is

being used for any such rejection. Therefore, presently amended independent claim 5 is allowable.

Obviousness Rejection Based on Stanek (U.S. Patent 5,936,554) in view of Schneider et al. (U.S. Patent 6,507,763) and further in view of Eventoff (U.S. Patent 4,451,714).

Claims 19 through 21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Stanek (U.S. Patent 5,936,554) in view of Schneider et al. (U.S. Patent 6,507,763) and further in view of Eventoff (U.S. Patent 4,451,714).

Applicant again asserts that to establish a *prima facie* case of obviousness under 35 U.S.C. § 103 three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Third, the cited prior art reference must teach or suggest all of the claim limitations. Furthermore, the suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Applicant's disclosure.

Applicant asserts that any combination of the cited prior art does not establish a *prima facie* case of obviousness under 35 U.S.C. § 103 regarding the presently claimed invention of presently amended independent claim 19 because, at the very least, the proposed combination of cited prior art does not teach or suggest all the claim limitations of the presently amended independent claim 19, and any rejection of presently amended independent claim 19 based upon any combination of the cited prior art would be a hindsight reconstruction of the Applicant's presently claimed invention based solely upon Applicant's disclosure, not the combination of the cited prior art.

First, the proposed combination of the cited prior art does not teach or suggest all the claim limitations of the presently claimed invention calling for "a key cap mounted atop each switch device of said plurality of switch devices, each key cap having at least one identifying graphic symbol formed on a surface thereof of a first material having no electrical connection

thereto including one of a black material and a dark-colored non-luminescent material" and "a second luminescent material embedded within a portion of each key cap different than the first material forming the identifying graphic symbol, the second luminescent material substantially embedded throughout each key".

The Stanek reference teaches an illuminated key. The Schneider et al. reference teaches a radio frequency keyboard using battery power. The Eventoff reference teaches keyboard switch assembly having insulation over the circuit traces. Clearly, any combination of the cited prior art does not and cannot teach or suggest the claim limitations of the presently claimed invention of presently amended independent claim 19. Therefore, presently amended independent claim 19 is allowable as well as dependent claim 20 therefrom.

Additionally, Applicant asserts that any rejection of the presently claimed invention of presently amended independent claim 19 based upon any combination of the cited prior art would be a hindsight reconstruction of the Applicant's presently claimed invention based solely upon Applicant's disclosure, not the cited prior art. Such a rejection is neither within the ambit nor purview of 35 U.S.C. § 103 and, clearly, improper. Such a rejection is clearly a hindsight reconstruction of Applicant's claimed invention based solely upon Applicant's disclosure because the proposed combination of the cited prior art fails to teach or suggest the claim limitations of the presently claimed invention. Accordingly, solely Applicant's disclosure is being used for any such rejection. Therefore, presently amended independent claim 19 is allowable as well as dependent claim 20 therefrom.

Obviousness Rejection Based on Dreher (U.S. Patent 4,551,717) and Takami (U.S. Patent 4,205,222) in view of Schneider et al. (U.S. Patent 6,507,763) and further in view of Eventoff (U.S. Patent 4,451,714).

Claim 22 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Dreher (U.S. Patent 4,551,717) and Takami (U.S. Patent 4,205,222) in view of Schneider et al. (U.S. Patent 6,507,763) and further in view of Eventoff (U.S. Patent 4,451,714).

Applicant yet again asserts that to establish a *prima facie* case of obviousness under 35 U.S.C. § 103 three basic criteria must be met. First, there must be some suggestion or

motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Third, the cited prior art reference must teach or suggest all of the claim limitations. Furthermore, the suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Applicant's disclosure.

Applicant asserts that any combination of the cited prior art does not establish a *prima facie* case of obviousness under 35 U.S.C. § 103 regarding the presently claimed invention of presently amended independent claim 22 because, at the very least, the proposed combination of cited prior art does not teach or suggest all the claim limitations of the presently amended independent claim 19, and any rejection of presently amended independent claim 19 based upon any combination of the cited prior art would be a hindsight reconstruction of the Applicant's presently claimed invention based solely upon Applicant's disclosure, not the combination of the cited prior art.

First, the proposed combination of the cited prior art does not teach or suggest all the claim limitations of the presently claimed invention calling for "a key cap mounted atop each switch device of said plurality of switch devices, each key cap having at least one identifying graphic symbol formed on a surface thereof of a first material having no electrical connection thereto including one of a black material and a dark-colored non-luminescent material" and "a second luminescent material including tritium embedded within said at least one symbol of each key cap different than the first material forming the identifying graphic symbol, the second luminescent material substantially embedded throughout each key".

As set forth above, the Dreher reference is directed to a key having a LCD or LED display. The Takami reference is directed to a key having a LCD display using a luminescent phosphor. . The Schneider et al. reference teaches a radio frequency keyboard using battery power. The Eventoff reference teaches keyboard switch assembly having insulation over the circuit traces. Clearly, any combination of the cited prior art does not and cannot teach or suggest the claim limitations of the presently claimed invention of presently amended independent claim 22. Therefore, presently amended independent claim 22 is allowable.

Additionally, Applicant asserts that any rejection of the presently claimed invention of presently amended independent claim 22 based upon any combination of the cited prior art would be a hindsight reconstruction of the Applicant's presently claimed invention based solely upon Applicant's disclosure, not the cited prior art. Such a rejection is neither within the ambit nor purview of 35 U.S.C. § 103 and, clearly, improper. Such a rejection is clearly a hindsight reconstruction of Applicant's claimed invention based solely upon Applicant's disclosure because the proposed combination of the cited prior art fails to teach or suggest the claim limitations of the presently claimed invention. Accordingly, solely Applicant's disclosure is being used for any such rejection. Therefore, presently amended independent claim 22 is allowable.

In summary, Applicant submits that claims 1, 2, 5, 8, 9, 19 and 22 are clearly allowable over the cited prior art for the reasons set forth herein.

Applicant requests the allowance of claims 1, 2, 5, 8, 9, 19 and 22 and the case passed for issue.

Respectfully submitted,



James R. Duzan
Registration No. 28,393
Attorney for Applicant
TRASKBRITT
P.O. Box 2550
Salt Lake City, Utah 84110-2550
Telephone: 801-532-1922

Date: December 3, 2003

JRD/sls:djp

Document in ProLaw